



STATE OF ILLINOIS

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

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<b>DOCKET NO:</b> H-16	<b>BOARD MEETING:</b> August 16, 2011	<b>PROJECT NO:</b> 11-016	<b>PROJECT COST:</b> Original: \$2,187,768
<b>FACILITY NAME:</b> ARA McHenry Dialysis Center		<b>CITY:</b> McHenry	
<b>TYPE OF PROJECT:</b> Substantive			<b>HSA:</b> VIII

**PROJECT DESCRIPTION:** The applicants (ARA Renal Associates, LLC, ARA N.W. Chicago, LLC, and McHenry Dialysis Center, LLC), are proposing to establish a 12-station End Stage Renal Dialysis (ESRD) facility. The cost of the project is \$2,187,768.



## **EXECUTIVE SUMMARY**

### **PROJECT DESCRIPTION:**

- The applicants (ARA Renal Associates, LLC, ARA N.W. Chicago, LLC, and McHenry Dialysis Center, LLC), are proposing to establish a 12-station End Stage Renal Dialysis (ESRD) facility located 5,600 GSF of leased space in McHenry. The cost of the project is \$2,187,768. The anticipated project completion date is September 30, 2012.

### **WHY THE PROJECT IS BEFORE THE STATE BOARD:**

- This project is before the State Board because the project proposes to establish a health care facility as defined by Illinois Health Facilities Planning Act.

### **PURPOSE OF THE PROJECT:**

- The purpose of the project is to ensure timely access to life-sustaining dialysis to patients identified by physicians practicing in the service area.

### **NEED FOR THE PROJECT:**

- To establish an ESRD facility the applicants must demonstrate a calculated planning area need, the proposed ESRD service will provide service to the residents of the planning area, there is a demand for the proposed ESRD service, the ESRD service will improve access, and the service will not result in an unnecessary duplication or mal-distribution of service.
- **There is an excess of 35 ESRD stations in this ESRD planning area.** According to the applicants 74.5% of the pre ESRD patients will come from within the planning area. The applicants have identified 55 pre ESRD patients that will utilize the proposed facility. There is no absence of dialysis service within the ESRD planning area and there has been no documentation provided that there are access limitations due to payor status of patients. No documentation has been provided that would indicate restrictive admission policies at other existing providers or any indication that the area population and existing care system exhibit indicators of medical care problems.
- **The State Agency notes the following:** Referral letters were requested from this applicant. The applicant was unable to provide the necessary 3 year historical referral data by physician as required by State Board rule. This 3 year historical data requirement is requested of ALL proposed ESRD applicants. This data allows the State Board to determine if the proposed referrals to the proposed facility do not exceed the historical referrals made by the referring physician.

### **BACKGROUND/COMPLIANCE ISSUES:**

- Applicants have an outstanding compliance issue related to the State Board regarding

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project #10-006 ARA South Barrington failure to file final cost report timely.

**FINANCIAL AND ECONOMIC FEASIBILITY:**

- The entirety of the project will be funded through internal sources (Cash and Securities/Fair Market Value of the Lease). A review of the financial statements indicates sufficient resources are available to fund the project.

**CONCLUSIONS:**

- This project is being proposed in response to 55 Pre-ESRD patients in the service area requiring dialysis services in the next 12-18 months. The applicants note these 55 patients are above and beyond the existing patients of the referring physicians currently dialyzing at other facilities. The applicants note their neighboring facility, ARA South Barrington Dialysis, increased their station complement from 11 to 14, after reporting a utilization rate of 95%. The State Agency notes an excess of 35 ESRD stations in the HSA-08 ESRD service area, 3 of the 4 facilities within 30 minutes are not at the State Board target occupancy of 80% and this existing capacity can accommodate an additional 65 patients before reaching the State Board target occupancy of 80%.

State Board Standards Not Met	
Criteria	Reasons for Non-Compliance
1110.1430(b)(3) Planning Area Need	The State Agency notes an excess of 35 ESRD stations in HSA-08.
1120.1430(c)(2) Unnecessary Duplication/Maldistribution of Service	3 of the 4 facilities (75%), within 30 minutes are not at the State Board's target occupancy of 80% and 1 facility owned by the applicants within 30 minutes owned by the applicants is at 54.1% occupancy.



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**STATE AGENCY REPORT**  
**ARA McHenry Dialysis Center - McHenry**  
**PROJECT #11-016**

Applicants	American Renal Associates, LLC ARA NW Chicago, LLC McHenry Dialysis Center, LLC
Facility Name	ARA McHenry Dialysis Center
Location	McHenry
Application Received	March 28, 2011
Application Deemed Complete	March 29, 2011
Review Period Ended	No
Review Period Extended by the State Agency	No
Public Hearing Requested	No
Applicants' Deferred Project	No
Can Applicants Request Another Deferral?	Yes
Applicants' Modified the Project	No

**I. The Proposed Project**

The applicants are proposing the establishment of a 12-station ESRD facility located in McHenry. The facility will be located in 5,600 GSF of leased space. The cost of the project is \$2,187,768.

**II. Summary of Findings**

- A. The State Agency finds the proposed project does **not** appear to be in conformance with the provisions of Part 1110.
- B. The State Agency finds the proposed project appears to be in conformance with the provisions of Part 1120.

**III. General Information**

The proposed facility will be located at 4209 West Shamrock Lane, McHenry (McHenry County) in HSA-08. The applicants are American Renal Associates, LLC, ARA Northwest Chicago, LLC, and McHenry Dialysis Center, LLC. American Renal Associates, LLC, is the parent organization for all the entities. M&E, LLC owns the site, and McHenry Dialysis Center, LLC is the operating entity/licensee. The proposed facility will be located in McHenry in the HSA-08.

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HSA-08 is comprised of the Illinois Counties of Kane, Lake, and McHenry. There are 21 providers of ESRD services in HSA VIII. According to the July 2011 update to IDPH Inventory of Health Care Facilities ("Inventory"), HSA VIII shows a computed **excess of 35 ESRD stations**.

Table One depicts the ESRD facilities in HSA VIII and their utilization.

TABLE ONE Facilities within the HSA VIII ESRD Service Area					
Facility	Ownership	City	Stations	Occupancy %	Met Occupancy Standard
Neomedica - Gurnee	Fresenius	Gurnee	14	100.00%	Yes
Quality Renal Care-Dundee		Carpentersville	13	91.03%	Yes
Fox Valley Dialysis Center		Aurora	26	86.54%	Yes
Fresenius Medical Care of Lake Bluff	Fresenius	Lake Bluff	16	84.38%	Yes
Neomedica Dialysis Ctrs - Round Lake	Fresenius	Round Lake	16	81.25%	Yes
Highland Park Hospital		Highland Park	20	78.33%	No
Cobblestone Dialysis	Davita	Elgin	14	73.81%	No
Aurora Dialysis Center	Fresenius	Aurora	24	73.61%	No
Dialysis Center of America - NCDC	DSI	Waukegan	22	72.73%	No
Delnor Community Hospital Tri Cities		Geneva	18	68.52%	No
Lake County Dialysis Ctr	Davita	Libertyville	16	67.71%	No
Fresenius Medical Care of Antioch	Fresenius	Antioch	12	66.67%	No
Fresenius Medical Care of McHenry	Fresenius	McHenry	12	62.50%	No
ARA- Crystal Lake Dialysis <sup>(5)</sup>	ARA	Crystal Lake	16	54.17%	No
Lake Villa Dialysis	Davita	Lake Villa	12	44.44%	No
Crystal Spring Dialysis	Davita	Crystal Lake	12	44.44%	No
Quality Renal Care		Marengo	10	40.00%	No
Fresenius Medical Care-Elgin	Fresenius	Elgin	12	6.94%	No
Fresenius Medical Care West Batavia	Fresenius	Batavia	12	0.00%	No
Fresenius Medical Care Mundelein	Fresenius	Mundelein	12	0.00%	No
Fresenius Medical Care Waukegan Harbor	Fresenius	Waukegan	21	0.00%	No
<ol style="list-style-type: none"> <li>1. Occupancy information taken from March 2011 Renal Network Data</li> <li>2. Fresenius Medical Care West Batavia approved March 2010 as Project #09-067 not yet operational</li> <li>3. Fresenius Medical Care Mundelein approved September 2010 as Project #10-036 not yet operational</li> <li>4. Fresenius Medical Care Waukegan Harbor approved September 2010 as Project #10-039 not yet operational</li> <li>5. ARA Crystal Lake increased stations from 9 to 16 completed March 2011</li> </ol>					

There is no land acquisition cost for this project. This is a substantive project

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subject to both a Part 1110 and Part 1120 review. Project obligation will occur after permit issuance, and the anticipated project completion date is September 30, 2012.

**Summary of Support and Opposition Comments**

**A public hearing was offered on this project; however, no hearing was requested.** One letter of support and one letter of opposition were received by the State Agency.

**Fresenius Medical Care** *stated the referral letters used to justify the need for the facility did not include:*

- *the last three years historical patient data as reported to the Renal Network*
- *the most recent quarter patient data as reported to the Renal Network*
- *new referrals for the most recent year listed by facility and zip code*
- *and estimated number of patients who are not expected to continue requiring in-center dialysis services.*

**IV. The Proposed Project - Details**

The applicants propose to establish a 12 station ESRD facility housed in 5,600 Gross Square Feet ("GSF") of leased space in McHenry. The total estimated project cost is \$2,187,768.

**V. Project Costs and Sources of Funds**

The total estimated project cost is \$2,187,768. The proposed project is being funded with cash and securities of \$1,289,000, and a lease with a Fair Market Value of \$898,768. The State Agency notes all costs are classified as being clinical. Table Two outlines the project's costs and uses of funds.

TABLE TWO	
Project Uses and Sources of Funds	
Uses of Funds	Clinical
Preplanning Costs	\$15,000
Modernization Contracts	\$672,000
Contingencies	\$56,000

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TABLE TWO	
Project Uses and Sources of Funds	
Uses of Funds	Clinical
A & E Fees	\$76,000
Consulting & Other Fees	\$50,000
Moveable Equipment	\$420,000
Fair Market Value of Leased Space & Equipment	\$898,768
<b>Total Uses of Funds</b>	<b>\$2,187,768</b>
Sources of Funds	Clinical
Cash and Securities	\$1,289,000
Leases (fair market value)	\$898,768
<b>Total Sources of Funds</b>	<b>\$2,187,768</b>

VI. Cost/Space Requirements

Table Three displays the project's cost/space requirements for the project. The clinical portion comprises approximately 100% of the cost and GSF.

TABLE THREE							
Barrington Creek Dialysis Cost/Space Allocation							
Clinical Department	Cost	Existing GSF	Proposed GSF	New	Modernized	Vacated	As Is
ESRD	\$2,187,768	5,600	0	0	5,600	0	0
<b>Total</b>	<b>\$2,187,768</b>	<b>5,600</b>	<b>0</b>	<b>0</b>	<b>5,600</b>	<b>0</b>	<b>0</b>

VII. Section 1110.230 - Project Purpose, Background and Alternatives

A. Criterion 1110.230(a) - Background of Applicant

The Criterion states:

- "1) An applicant must demonstrate that it is fit, willing and able, and has the qualifications, background and character, to adequately provide a proper standard of health care service for the community. [20 ILCS 3960/6] In evaluating the qualifications, background and character of the applicant, HFPB shall consider whether adverse action has been taken against the applicant, or

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against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application. A health care facility is considered "owned or operated" by every person or entity that owns, directly or indirectly, an ownership interest. If any person or entity owns any option to acquire stock, the stock shall be considered to be owned by such person or entity (refer to 77 Ill. Adm. Code 1100 and 1130 for definitions of terms such as "adverse action", "ownership interest" and "principal shareholder").

- 2) Examples of facilities owned or operated by an applicant include:
  - A) The applicant, Partnership ABC, owns 60% of the shares of Corporation XYZ, which manages the Good Care Nursing Home under a management agreement. The applicant, Partnership ABC, owns or operates Good Care Nursing Home.
  - B) The applicant, Healthy Hospital, a corporation, is a subsidiary of Universal Health, the parent corporation of Healthcenter Ambulatory Surgical Treatment Center (ASTC), its wholly-owned subsidiary. The applicant, Healthy Hospital, owns and operates Healthcenter ASTC.
  - C) Dr. Wellcare is the applicant. His wife is the director of a corporation that owns a hospital. The applicant, Dr. Wellcare, owns or operates the hospital.
  - D) Drs. Faith, Hope and Charity own 40%, 35% and 10%, respectively, of the shares of Healthfair, Inc., a corporation, that is the applicant. Dr. Charity owns 45% and Drs. Well and Care each own 25% of the shares of XYZ Nursing Home, Inc. The applicant, Healthfair, Inc., owns and operates XYZ Nursing Home, Inc.
- 3) The applicant shall submit the following information:
  - A) A listing of all health care facilities currently owned and/or operated by the applicant, including licensing, certification and accreditation identification numbers, as applicable;
  - B) A certified listing from the applicant of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application;
  - C) Authorization permitting HFPB and Illinois Department of Public Health (IDPH) access to any documents necessary to verify the information submitted, including, but not limited to: official records of IDPH or other State agencies;



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the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. Failure to provide the authorization shall constitute an abandonment or withdrawal of the application without any further action by HFPB.

- 4) If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this criterion. In such instances, the applicant shall attest that the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed to update and/or clarify data.

The applicants provided a listing of two other ESRD facilities currently owned and/or operated by the applicants. The applicants supplied a certified statement that no adverse action has been taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application, and authorization permitting HFPB and Illinois Department of Public Health (IDPH) access to any documents necessary to verify the information submitted. The applicants appear fit, willing and able and have the qualifications, background and character to adequately provide a proper standard of healthcare service for the community.

**B. Safety Net Impact Statement/Charity Care**

The applicants stated the proposed dialysis facility will not have an impact on safety net services that would result from the establishment of a health care facility designed to provide health care services. The applicants assists its patients in the enrollment process for Medicare and Medicaid and through the nephrologists offices, this process is often completed prior to the initiation of ESRD services. It has been the applicants' experience that ESRD patients are often under the care of a nephrologist for a minimum of a year, prior to initiating chronic dialysis. ARA currently provides dialysis services to Medicaid recipients in both of its existing facilities and fully anticipates doing so at this facility. Both of

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ARA facilities operate with policies that provide for the provision of ESRD services for all patients referred to the facility, regardless of their ability to pay or source of payment. The project as proposed will not materially impact the cross subsidizing of safety net services provided in the community.

TABLE FOUR			
SAFETY NET INFORMATION			
ARA Northwest Chicago, LLC			
CHARITY CARE			
	2008	2009	2010
Charity (# of self-pay patients)	Not Provided	3	0
Charity (self-pay) Cost	Not Provided	\$35,055	\$0
Charity Care Charges	Not Provided	\$42,407	\$0
MEDICAID			
		2009	2010
Medicaid (Patients)	Not Provided	60	65
Medicaid (Revenue)	Not Provided	\$ 263,869	\$ 480,432

C. Criterion 1110.230(b) - Purpose of the Project

The Criterion states:

The applicant shall document that the project will provide health services that improve the health care or well-being of the market area population to be served. The applicant shall define the planning area or market area, or other, per the applicant's definition.

- 1) The applicant shall address the purpose of the project, i.e., identify the issues or problems that the project is proposing to address or solve. Information to be provided shall include, but is not limited to, identification of existing problems or issues that need to be addressed, as applicable and appropriate for the project. Examples of such information include:
  - A) The area's demographics or characteristics (e.g., rapid area growth rate, increased aging population, higher or lower fertility rates) that may affect the need for services in the future;
  - B) The population's morbidity or mortality rates;
  - C) The incidence of various diseases in the area;

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- D) The population's financial ability to access health care (e.g., financial hardship, increased number of charity care patients, changes in the area population's insurance or managed care status);
- E) The physical accessibility to necessary health care (e.g., new highways, other changes in roadways, changes in bus/train routes or changes in housing developments).
- 2) The applicant shall cite the source of the information (e.g., local health department Illinois Project for Local Assessment of Need (IPLAN) documents, Public Health Futures, local mental health plans, or other health assessment studies from governmental or academic and/or other independent sources).
- 3) The applicant shall detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being. Further, the applicant shall provide goals with quantified and measurable objectives with specific time frames that relate to achieving the stated goals.
- 4) For projects involving modernization, the applicant shall describe the conditions being upgraded. For facility projects, the applicant shall include statements of age and condition and any regulatory citations. For equipment being replaced, the applicant shall also include repair and maintenance records.

The applicants propose to establish a 12-station ESRD facility in 5,600 gross square feet of leased space in McHenry, Illinois.

The applicants state the purpose of the project is to ensure timely access to life-sustaining dialysis to 55 pre-ESRD patients identified by Dr. Mohammad Zahid, Dr. Tewabe Kebede, and Dr. Betsy Eaton, physicians supporting the proposed project with referral letters. The applicants state the service area consists of Cook, McHenry, and Northeastern Kane counties in Northern Illinois. The applicants identified 28 zip codes in which the 55 pre-ESRD patients reside. The applicants further identified 15 of these zip codes that comprise a majority of its referral base, and a 30-minute drive radius (application, p. 55).

Table Five identifies facilities within a 30-minute timeframe and their utilization as determined by the State Agency. The applicants identified seven ESRD facilities within a 30-minute drive radius, and the State Agency identified four. It appears this discrepancy stems from the

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applicants not adjusting the travel time to each facility by 1.15, in accordance with 77 IAC 1100.510 (d). As seen in Table Five, three (75%) of the four facilities within a 30-minute travel time do not meet the State standard for utilization. The applicants assembled a comparative table (application, p. 72), and the data contained in Table 5 was gathered by the State Agency. Utilization data in Table 5 was obtained from the July 2011 Renal Network report, and travel times/distances were gathered through Mapquest and pro-rated in accordance with 77 IAC 1100.510 (d).

TABLE FIVE						
Facilities within 30 minutes of the proposed site <sup>(1)</sup>						
Facility	City	Minutes	Miles	Stations	Occupancy	Met Standard
FMC of McHenry	McHenry	4	1.7	12	62.5%	No
Crystal Springs Dialysis	Crystal Lake	12	6.8	12	44.4%	No
ARA-Crystal Lake Dialysis	Crystal Lake	16	8.2	16	54.1%	No
FMC Round Lake	Round Lake	23	12.4	16	81.2%	Yes
1. Travel times/distances supplied via MapQuest						
2. Information supplied by the March 2011 Renal Network Data						

The applicants cited the overall and measurable goal of the project is the admission of each patient to an ESRD facility close to home, and during a treatment shift that is least disruptive to the patient's normal life.

**D. Criterion 1110.230(c) - Alternatives to the Proposed Project**

**The Criterion states:**

**"The applicant shall document that the proposed project is the most effective or least costly alternative for meeting the health care needs of the population to be served by the project.**

- 1) Alternative options shall be addressed. Examples of alternative options include:**
  - A) Proposing a project of greater or lesser scope and cost;**
  - B) Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or a portion of the project's intended purposes; developing alternative settings to meet all or a portion of the project's intended purposes;**
  - C) Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project; and**
  - D) Other considerations.**

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- 2) **Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of cost, patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation.**
- 3) **The applicant shall provide empirical evidence, including quantified outcome data, that verifies improved quality of care, as available."**

The applicants propose a 12-station ESRD facility. The applicants considered the following alternatives:

1. **Offer a Fourth Dialysis Shift at ARA Crystal Lake**

The applicants rejected this option, based on the patient's current dialyzation schedules. The applicants note a high percentage of its patient base is elderly, and the lifestyle change (fourth shift: 8:00pm to 12:00pm), proposed with this alternative would be both impractical and unacceptable for this population. The applicants also note the potential transportation issues that usually develop when scheduling occurs during these non-traditional hours. **The applicants identified no costs with this alternative.**

2. **Continue Utilization of Other Area Resources**

The applicants state the referring nephrologists have identified 55 pre-ESRD patients which would support a 12-station facility, and identified 16 other patients currently dialyzing at another area ESRD facility. The applicants note the inadequate capacity at other area facilities to accommodate these 55 pre-ESRD patients, and the desire to centralize these patients in an ARA-supported facility. **The applicants identified no costs with this alternative.**

3. **Establish a New Facility**

The applicants realized this option as the only feasible alternative for serving the population of pre-ESRD patients, and to continue providing a quality of care measurable to ARA's standard. **The cost identified with this alternative: \$2,187,768.**

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VI. Section 1110.234 - Project Scope and Size, Utilization and Unfinished/Shell Space - Review Criteria

A) Size of Project

The Criterion states:

“The applicant shall document that the amount of physical space proposed for the project is necessary and not excessive. The proposed gross square footage (GSF) cannot exceed the GSF standards of Appendix B, unless the additional GSF can be justified by documenting one of the following:

- 1) Additional space is needed due to the scope of services provided, justified by clinical or operational needs, as supported by published data or studies;
- 2) The existing facility's physical configuration has constraints or impediments and requires an architectural design that results in a size exceeding the standards of Appendix B;
- 3) The project involves the conversion of existing bed space that results in excess square footage.”

The applicants propose to establish a 12 station ESRD facility in 5,600 GSF of leased space, with the entirety of this space being used for clinical purposes. The State board standard is 360 - 520 DGSF per station. The proposed project is allocating 466.6 GSF per station, which is in conformance with the standard.

TABLE SIX SIZE OF PROJECT 11-010 Barrington Creek Dialysis, Lake Barrington				
Department/ Service	Proposed BGSF/DGSF	State Standard	Difference	Met Standard?
ESRD Facility	5,600 GSF (466.6 GSF/Station)	360-520 DGSF	53 DGSF Under	Yes

THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE SIZE OF PROJECT CRITERION (77 IAC 1110.234(a)).

B. Criterion 1110.234 (b) - Project Services Utilization

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The applicant shall document that, by the end of the second year of operation, the annual utilization of the clinical service areas or equipment shall meet or exceed the utilization standards specified in Appendix B. The number of years projected shall not exceed the number of historical years documented. If the applicant does not meet the utilization standards in Appendix B, or if service areas do not have utilization standards in 77 Ill. Adm. Code 1100, the applicant shall justify its own utilization standard by providing published data or studies, as applicable and available from a recognized source, that minimally include the following:

The applicants have documented by the second year after project completion they will surpass the 80% target utilization level through the rendering of service to 55 patients currently identified as being "Pre-ESRD" and be in need of dialysis services in the next 12-18 months.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE PROJECTED SERVICES UTILIZATION CRITERION (77 IAC 1110.234(b)).**

**IX. Section 1110.1430 - In-Center Hemodialysis Projects - Review Criteria**

The criterion for establishing an ESRD facility reads as follows:

- 1) 77 Ill. Adm. Code 1100 (formula calculation)
  - A) The number of stations to be established for in-center hemodialysis is in conformance with the projected station deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.
  - B) The number of stations proposed shall not exceed the number of the projected deficit, to meet the health care needs of the population served, in compliance with the utilization standard specified in 77 Ill. Adm. Code 1100.
- 2) Service to Planning Area Residents
  - A) Applicants proposing to establish or add stations shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area



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in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.

- B) Applicants proposing to add stations to an existing in-center hemodialysis service shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the area. For all other projects, applicants shall document that at least 50% of the projected patient volume will be from residents of the area.
  - C) Applicants proposing to expand an existing in-center hemodialysis service shall submit patient origin information by zip code, based upon the patient's legal residence (other than a health care facility).
- 3) Service Demand - Establishment of In-Center Hemodialysis Service

The number of stations proposed to establish a new in-center hemodialysis service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new facility, the applicant shall submit projected referrals. The applicant shall document subsection (b)(3)(A) and either subsection (b)(3)(B) or (C).

- A) Historical Referrals
  - i) If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for each proposed category of service, for each of the latest two years.
  - ii) Documentation of the referrals shall include: patient origin by zip code; name and specialty of



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referring physician; name and location of the recipient facility.

**B) Projected Referrals**

The applicant shall provide physician referral letters that attest to:

- i) The physician's total number of patients (by facility and zip code of residence) who have received care at existing facilities located in the area, as reported to The Renal Network at the end of the year for the most recent three years and the end of the most recent quarter;
  - ii) The number of new patients (by facility and zip code of residence) located in the area, as reported to The Renal Network, that the physician referred for in-center hemodialysis for the most recent year;
  - iii) An estimated number of patients (transfers from existing facilities and pre-ESRD, as well as respective zip codes of residence) that the physician will refer annually to the applicant's facility within a 24-month period after project completion, based upon the physician's practice experience. The anticipated number of referrals cannot exceed the physician's documented historical caseload;
  - iv) An estimated number of existing patients who are not expected to continue requiring in-center hemodialysis services due to a change in health status (e.g., the patients received kidney transplants or expired);
  - v) The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty;
- VI ) Verification by the physician that the patient referrals have not been used to support another**

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pending or approved CON application for the subject services; and

VI i) Each referral letter shall contain a statement attesting that the information submitted is true and correct, to the best of the physician's belief.

5) Service Accessibility

The number of stations being established or added for the subject category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) Service Restrictions

The applicant shall document that at least one of the following factors exists in the planning area:

- i) The absence of the proposed service within the planning area;
- ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;
- iii) Restrictive admission policies of existing providers;
- iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;
- v) For purposes of this subsection (b)(5) only, all services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

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b) **Planning Area Need Review Criterion**

The applicant shall document that the number of stations to be established or added is necessary to serve the planning area's population, based on the following:

1) **77 Ill. Adm. Code 1100 (formula calculation)**

According to the July 2011 update to the IDPH Inventory of Health Care Facilities ("Inventory"), HSA-08 shows a computed **excess of 35 ESRD** stations. This project is requesting 12 stations, and note the projected patient population based on referrals emanating from three area physicians agreeing to refer 55 pre-ESRD patients to the proposed facility upon project completion (in 2012). The physicians in the referral letters confirmed that the patients identified for the proposed facility have not been used to support any other approved or pending CON applications.

2) **Service to Planning Area Residents**

The primary purpose of this project is to provide in-center ESRD services to the residents of HSA-08, and the Chicago metropolitan counties of Kane, Lake, and McHenry. Analysis of the projected referrals indicate that the majority of the proposed 55 pre-ESRD patients live within a 15 zip-codes primarily from McHenry County (application, p. 55).

3) **Service Demand**

The applicants propose to establish a 12-station ESRD facility in McHenry (HSA-08). The applicants report having commitments from 3 area physicians to refer 55 pre-ESRD patients to the new facility, and anticipate exceeding the operational capacity of 80% by 2014, the second year of operation. The referral letters provided in the application for permit do not meet the State Board requirements. The letters did not contain

1. the physician total number of patients who have received care at dialysis facilities for the prior 3 years and most recent quarter;
2. the number of new patients referred by the physician to area facilities within the past year;
3. the estimated number of patients that will be referred annually to the new facility by the physician;

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4. the existing number of patients not expected to continue receive care due to a change in health status.
5. certification that the referrals provided have not been used for other projects.

**4) Service Accessibility**

The applicant's state *that the issue of access is imminent, based on referrals from 3 area physicians who have identified 55 pre-ESRD patients who will require dialysis services by 2012, the year of project completion.* The applicants note the projected patient population is for the proposed facility exclusively, and will result in the facility surpassing the 80% occupational capacity target. The State Agency also notes the substandard operational capacity of three of the four (75%) ESRD facility in the GSA, and an excess of 35 ESRD stations in HSA-08 (See Table Five).

There is an excess of 35 ESRD stations in this planning area and there is no absence of service within 30 minutes of the proposed site. The referral letters provided by the three physicians do not meet the State Board standards. The applicants do not meet the requirements of this criterion.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT DOES NOT APPEAR TO BE IN CONFORMANCE WITH THE PLANNING AREA NEED CRITERION (77 IAC 1110.1430(b)).**

**c) Unnecessary Duplication / Maldistribution Review Criterion**

- 1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:
  - A) A list of all zip code areas that are located, in total or in part, within 30 minutes normal travel time of the project's site;
  - B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and

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- C) **The names and locations of all existing or approved health care facilities located within 30 minutes normal travel time from the project site that provide the categories of station service that are proposed by the project.**
- 2) **The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, stations and services characterized by such factors as, but not limited to:**
  - A) **A ratio of stations to population that exceeds one and one-half times the State average;**
  - B) **Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the utilization standard established pursuant to 77 Ill. Adm. Code 1100; or**
  - C) **Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above utilization standards.**
- 3) **The applicant shall document that, within 24 months after project completion, the proposed project:**
  - A) **Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and**
  - B) **Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.**

The applicant provided a list of all zip code areas that are located within 30 minutes of the proposed site as required (application, p. 55), and the applicants state that the current ratio of ESRD stations to population is 1 station per 4,900 individuals in the ESRD planning area. The State average is 1 station per 3,853 individuals.

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The applicants state that the project will not have an adverse impact on area providers due to the 55 new pre-ESRD patients committed to be referred to the proposed facility by three area physicians, and that no patients will be transferred from another facility. The applicants also contend that the proposed facility will meet an expanding senior demographic in McHenry County, which will improve distribution of ESRD services and not lower the utilization rates at other area providers within HSA-08. However, the State Inventory shows a current excess of 35 stations, and the addition of 12 more ESRD stations will increase this overage to 47 ESRD stations in the HSA. In addition 3 of the 4 facilities within 30 minutes of the proposed site are not at the State Board target occupancy. A positive finding cannot be made for this criterion.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT DOES NOT APPEAR TO BE IN CONFORMANCE WITH THE UNNECESSARY DUPLICATION/MALDISTRIBUTION CRITERION (77 IAC 1110.1430 (c)(2)).**

**C) Staffing - Availability**

**The Criterion states:**

**"The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that licensure and JCAHO staffing requirements can be met. In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the proposed staffing will be achieved.**

**1) Qualifications**

- A) Medical Director - Medical direction of the facility shall be vested in a physician who has completed a board-approved training program in nephrology and has at least 12 months experience providing care to patients receiving dialysis.**
- B) Registered Nurse - The nurse responsible for nursing services in the unit shall be a registered nurse (RN) who meets the practice requirements of the State of Illinois and has at least 12 months experience in providing nursing care to patients on maintenance dialysis.**

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- C) **Dialysis Technician** – This individual shall meet all applicable State of Illinois requirements (see 210 ILCS 62, the End Stage Renal Disease Facility Act). In addition, the applicant shall document its requirements for training and continuing education.
- D) **Dietitian** – This individual shall be a registered dietitian with the Commission on Dietetic Registration, meet the practice requirements of the State of Illinois (see the Dietetic and Nutrition Services Practice Act [225 ILCS 30]) and have a minimum of one year of professional work experience in clinical nutrition as a registered dietitian.
- E) **Social Worker** – The individual responsible for social services shall have a Master's of Social Work and meet the State of Illinois requirements (see 225 ILCS 20, the Clinical Social Work and Social Work Practice Act)."

The applicants are proposing to establish a 12-station ESRD facility and have provided the necessary information as required by this criterion on pages 107-109 of the application for permit.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE STAFFING CRITERION (77 IAC 1110.1430 (c)).**

**D) Support Services**

The Criteria states:

**"An applicant proposing to establish an in-center hemodialysis category of service must submit a certification from an authorized representative that attests to each of the following:**

- 1) Participation in a dialysis data system;**
- 2) Availability of support services consisting of clinical laboratory service, blood bank, nutrition, rehabilitation, psychiatric and social services; and**
- 3) Provision of training for self-care dialysis, self-care instruction, home and home-assisted dialysis, and home training provided at the proposed facility, or the existence of a signed, written agreement for provision of these services with another facility."**

The applicants are proposing to establish a 12-station ESRD facility and

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have provided the necessary documentation as required by this criterion at page 111 of the application for permit.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE SUPPORT SERVICES CRITERION (77 IAC 1110.1430 (d)).**

**E) Assurances**

**The Criterion states:**

**“The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that:**

- 1) By the second year of operation after the project completion, the applicant will achieve and maintain the utilization standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal; and**
- 2) An applicant proposing to expand or relocate in-center hemodialysis stations will achieve and maintain compliance with the following adequacy of hemodialysis outcome measures for the latest 12-month period for which data are available:  
≥ 85% of hemodialysis patient population achieves area reduction ratio (URR) ≥ 65% and ≥ 85% of hemodialysis patient population achieves Kt/V Daugirdas .1.2.”**

The applicants provided the certification information at page 118 of the application for permit as required of the criterion.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE ASSURANCES CRITERION (77 IAC 1110.1430 (j)).**

**g) Minimum Number of Stations**

**The minimum number of in-center hemodialysis stations for an End Stage Renal Disease (ESRD) facility is:**

- 1) Four dialysis stations for facilities outside an MSA;**
- 2) Eight dialysis stations for a facility within an MSA.**



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The proposed 12 station ESRD facility will be located in an MSA. The applicants have met the requirements of this criterion

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE MINIMUM NUMBER OF STATIONS CRITERION (77 IAC 1110.1430 (g)).**

**h) Continuity of Care**

**An applicant proposing to establish an in-center hemodialysis category of service shall document that a signed, written affiliation agreement or arrangement is in effect for the provision of inpatient care and other hospital services. Documentation shall consist of copies of all such agreements.**

The applicants have provided the required affiliation agreements on pages 113-117 of the application for permit. The transfer agreement is with St. Alexius Medical Center, Hoffman Estates. The applicants have met the requirements of this criterion.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE CONTINUITY OF CARE CRITERION (77 IAC 1110.1430 (h)).**

**Section 1120 - Financial Feasibility - Review Criteria**

**X. 1120.120 - Availability of Funds**

**The applicant shall document that financial resources shall be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources.**

The applicants are funding the project with cash and securities of \$1,289,000 and the FMV of the lease of \$898,768. A review of the applicants' financial statements indicates that sufficient cash is available to fund the project.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE AVAILABILITY OF FUNDS CRITERION (77 IAC 1120.120 (a)).**

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**XI. 1120.130 - Financial Feasibility**

**A) Criterion 1120.130 - Financial Viability**

**Financial Viability Waiver**

The applicant is NOT required to submit financial viability ratios if:

- 1) all project capital expenditures, including capital expended through a lease, are completely funded through internal resources (cash, securities or received pledges); or

**HFSRB NOTE: Documentation of internal resources availability shall be available as of the date the application is deemed complete.**

- 2) the applicant's current debt financing or projected debt financing is insured or anticipated to be insured by Municipal Bond Insurance Association Inc. (MBIA), or its equivalent; or

**HFSRB NOTE: MBIA Inc is a holding company whose subsidiaries provide financial guarantee insurance for municipal bonds and structured financial projects. MBIA coverage is used to promote credit enhancement as MBIA would pay the debt (both principal and interest) in case of the bond issuer's default.**

- 3) the applicant provides a third-party surety bond or performance bond letter of credit from an A rated guarantor (insurance company, bank or investing firm) guaranteeing project completion within the approved financial and project criteria.

The applicants have qualified for the financial waiver because the project is being funded with internal sources including capital expended through a lease. The applicants are funding the project with cash and securities of \$1,289,000 and the FMV of the lease of \$898,768. A review of the applicants' audited financial statements indicates that sufficient cash is available to fund the project.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE FINANCIAL FEASIBILITY CRITERION (77 IAC 1120.130 (a)).**

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**XII. Section 1120.140 - Economic Feasibility**

**A. Criterion 1120.140(a) - Reasonableness of Financing Arrangements**

The applicant shall document the reasonableness of financing arrangements by submitting a notarized statement signed by an authorized representative that attests to one of the following:

1) That the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation; or

2) That the total estimated project costs and related costs will be funded in total or in part by borrowing because:

A) A portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order to maintain a current ratio of at least 2.0 times for hospitals and 1.5 times for all other facilities; or

B) Borrowing is less costly than the liquidation of existing investments, and the existing investments being retained may be converted to cash or used to retire debt within a 60-day period.

The applicants are funding the project with cash and securities of \$1,289,000 and the FMV of the lease of \$898,768. The applicants have supplied information making the requirements of this criterion inapplicable.

**THE STATE AGENCY FINDS THE REASONABLENESS OF FINANCING ARRANGEMENTS CRITERION IS INAPPLICABLE (77 IAC 1120.140(a)).**

**B. Criterion 1120.140(b) - Terms of Debt Financing**

This criterion is applicable only to projects that involve debt financing. The applicant shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:

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- 1) That the selected form of debt financing for the project will be at the lowest net cost available;
- 2) That the selected form of debt financing will not be at the lowest net cost available, but is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs and other factors;
- 3) That the project involves (in total or in part) the leasing of equipment or facilities and that the expenses incurred with leasing a facility or equipment are less costly than constructing a new facility or purchasing new equipment.

The applicants are funding the project with cash and securities of \$1,289,000 and the FMV of the lease of \$898,768. Based on the supplied information, this criterion is not applicable.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE TERMS OF DEBT FINANCING CRITERION (77 IAC 1120.140(b)).**

**C. Criterion 1120.140(c) - Reasonableness of Project Cost**

The applicant shall document that the estimated project costs are reasonable and shall document compliance with the State Board's standards as detailed in 77 IAC 1120.

**Preplanning Costs** - These costs total \$15,000 and are 1.3% of modernization, contingencies and movable or other equipment. This appears reasonable when compared to the State Board standard of 1.8%.

**Modernization Contracts and Contingencies** - These costs total \$728,000 or \$130.00 per gross square feet. ( $\$728,000 / 5,600 \text{ GSF} = \$130.00 / \text{GSF}$ ) This appears reasonable when compared to the State Board standard of \$149.35/GSF.

**Contingencies** - These costs total \$56,000. These costs are 14.9% of modernization costs. This appears reasonable when compared to the State Board standard of 10%-15% of modernization costs.

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**Architect and Engineering Fees** – These costs total \$48,000 or 8.3% of modernization and contingency costs. This appears reasonable when compared to the State Board standard of 6.22% to 9.34% of modernization and contingency costs.

**Moveable Equipment** - These costs total \$420,000 or \$35,000 per station. This appears reasonable when compared to the State Board standard of \$39,945.

**Fair Market Value of Leased Space** - These costs are \$898,768. The State Board does not have a standard for these costs.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE REASONABLENESS OF PROJECT COST CRITERION (77 IAC 1120.140 (c)).**

**D) Criterion 1120.140 (d) - Projected Operating Costs**

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct cost means the fully allocated costs of salaries, benefits and supplies for the service.

The applicants anticipate the direct operating costs per treatment to be \$106.51. The State Board does not have a standard for these costs.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE PROJECT DIRECT OPERATING COSTS CRITERION (77 IAC 1120.140 (d)).**

**E) Criterion 1120.140 (e) - Total Effect of the Project on Capital Costs**

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

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The applicants anticipate the total effect of the Project on Capital Costs per treatment to be \$13.06. The State Board does not have a standard for these costs.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE TOTAL EFFECT OF THE PROJECT ON CAPITAL COSTS CRITERION (77 IAC 1120.140 (e)).**



The map displays the Chicago metropolitan area and surrounding regions. A callout box identifies the location of the ARA McHenry Dialysis Ctr. at 4209 W Shamrock Ln, McHenry, IL 60050. The map shows major highways including I-90, I-94, and I-290. Surrounding counties such as Walworth, Kenosha, Lake, and Cook are labeled. The map also shows various cities and towns, including McHenry, Woodstock, Crystal Lake, and Elgin. A scale bar at the bottom indicates distances from 0 to 20 miles.